

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

March 16, 2009

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Nicholson, Associate Justice; Hull, Associate Justice; and Horner, bailiff.

**C057542 TAXPAYERS FOR IMPROVING PUBLIC SAFETY et al. v.
SCHWARZENEGGER as Governor, etc., et al.**

Cause called. Steven C. Sanders argued for appellants. Seth E. Goldstein, Deputy Attorney General, argued for respondents. Cause submitted.

At 10:21 a.m., the court recessed. At 10:23 a.m., the court reconvened with Nicholson, Associate Justice; Raye, Associate Justice; and Robie, Associate Justice.

C058061 THE PEOPLE v. DANNY GREG UEKER

Cause called. Richard Power, court appointed counsel, argued for appellant. Catherine Tennant Nieto, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:03 a.m., the court recessed. At 11:04 a.m., the court reconvened with Nicholson, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

**C057018 CALIFORNIA NATIVE PLANT SOCIETY v. CITY OF RANCHO CORDOVA et
al.; JAEGER ROAD 530, LLC**

Cause called. James G. Moose argued for real party in interest and appellant Jaeger Road 530, LLC. Julia L. Bond argued for appellants City of Rancho Cordova et al. Keith G. Wagner argued for appellant California Native Plant Society. Cause submitted.

At 11:43 a.m., the court recessed. At 2:00 p.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Robie, Associate Justice.

C059391 THE PEOPLE v. EDDIE ALLEN HODGES

Cause called. Ronald Richard Boyer, court appointed counsel, argued for appellant. Ivan P. Marrs, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:33 p.m., the court recessed. At 2:35 p.m., the court reconvened with Scotland, Presiding Justice; Hull, Associate Justice; and Butz, Associate Justice.

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*Retired Associate Justice of the Court of Appeal. Third Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

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March 16, 2009, Continued

- C058522 THE PEOPLE v. (Not For Publication)**
TOMMY LEE SCHMITZ
The trial court judgment is affirmed.
MORRISON, J.*
We Concur: Nicholson, Acting P.J.
Robie, J.
- C059311 THE PEOPLE v. (Not For Publication)**
ELIAS REGALDO MURILLO
The order denying defendant's motion to reconsider is affirmed.
MORRISON, J.*
We Concur: Nicholson, Acting P.J.
Robie, J.
- C058843 JACKSON et al. v. BARBEE et al. (Not For Publication)**
The judgment is affirmed. The Barbees shall recover their costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (1) & (2) .)
SIMS, Acting P.J.
We Concur: Hull, J.
Robie, J.
- C059162 In re M.G. et al.; SACRAMENTO COUNTY (Not For Publication)**
DEPARTMENT OF HEALTH AND HUMAN
SERVICES v. J.A. et al.
The order terminating parental rights as to J.T. is vacated, and the matter is remanded to the juvenile court with directions to order the Department to provide proper ICWA notice to the relevant tribes and BIA, including the birthdate and birthplace of Bernard T., and to comply with all statutory requirements regarding filing of notices and return receipts with the juvenile court. ... If, on the other hand, no response is received or the tribes and the BIA determine the minor is not an Indian child, all previous findings and orders shall be reinstated. The juvenile court's orders related to M.G. and Mason G. are affirmed.
NICHOLSON, J.
We Concur: Scotland, P.J.
Sims, J.

*Retired Associate Justice of the Court of Appeal. Third Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

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Butz, J.

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Court Minutes

March 17, 2009, Continued

- C058838 ILSE M. BROWN v. CITY OF CHICO (Not For Publication)**
The judgment is affirmed. The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (5) .)
SIMS, Acting P.J.
We Concur: Hull, J.
 Butz, J.
- C059695 In re A.B.; SAN JOAQUIN COUNTY (Not For Publication)**
HUMAN SERVICES AGENCY v. M.L.
The appeal is dismissed for lack of standing.
SCOTLAND, P.J.
We Concur: Hull, J.
 Butz, J.
- C057773 THE PEOPLE v. MICHAEL ALAN KHATOONIAN**
BY THE COURT:
Respondent's petition for rehearing is denied.
SCOTLAND, P.J.
- C060965 SAN JOAQUIN COUNTY HUMAN SERVICES AGENCY v. MARCUS W. et al.**
BY THE COURT:
Good cause appearing, the decision filed on March 9, 2009, is vacated, and the appeal is reinstated.
Appellants' application for waiver of court fees and costs is granted.
Appellants' opening brief is to be served and filed on or before April 16, 2009.
SCOTLAND, P.J.

March 18, 2009

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Sims, Associate Justice; Hull, Associate Justice; Robie, Associate Justice; and Haskett, bailiff.

- C056049 THE PEOPLE v. ARMONDO de la CRUZ**
Cause called. David McNeil Morse, court appointed counsel, argued for appellant. Janine R. Busch, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:39 a.m., the court recessed. At 10:00 a.m., the court reconvened with Sims, Associate Justice; Hull, Associate Justice; and Butz, Associate Justice.

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Court Minutes

March 18, 2009, Continued

C057734 PLUMBERS AND STEAMFITTERS LOCAL UNION NO. 447 et al. v. JOHN F. OTTO, INC.

Cause called. Andrew J. Kahn argued for appellant. Alden J. Parker argued for respondent. Cause submitted.

At 10:29 a.m., the court recessed. At 2:02 p.m., the court reconvened with Scotland, Presiding Justice; Hull, Associate Justice; and Robie, Associate Justice.

C058502 HOFMAN RANCH et al. v. YUBA COUNTY LOCAL AGENCY FORMATION COMMISSION et al.

Cause called. Michael E. Chase argued for appellant. P. Scott Browne argued for respondent. Cause submitted.

At 2:46 p.m., the court recessed until Friday, March 20, 2009.

C058583 THE PEOPLE v. ALFRED LEE HODGES (Not For Publication)

The judgment is affirmed.

BUTZ, J.

We Concur: Raye, Acting P.J.
Hull, J.

C058607 THE PEOPLE v. LEON DAVID FIELDS (Not For Publication)

The judgment is affirmed.

NICHOLSON, J.

We Concur: Scotland, P.J.
Sims, J.

C059704 In re L.M.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. G.M.

BY THE COURT:

Appellant's motion to reinstate the appeal is denied.
SCOTLAND, P.J.

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Court Minutes

March 19, 2009

- C059891 THE PEOPLE v. (Not For Publication)**
RICARDO DON BARKINS
The judgment is affirmed.
NICHOLSON, J.
We Concur: Sims, Acting P.J.
Cantil-Sakauye, J.
- C056750 EBLLEN et al. v. (Not For Publication)**
LAKEMONT HOMES INCORPORATED et al.
The judgment is affirmed.
BLEASE, Acting P.J.
We Concur: Nicholson, J.
Raye, J.
- C056755 MUZZI et al. v. BEL AIR MART**
BY THE COURT:
The order denying attorney fees is vacated. The matter is remanded to the trial court to exercise its discretion and determine (1) whether, in light of our decision in *Muzzi v. Bel Air Market* (C055430) and the disposition of earlier claims, there is a prevailing party in this action and (2) if so, the attorney fees to be awarded. In all other respects, the motion for summary reversal is denied. The stay issued February 21, 2008, is vacated; appellants' request for judicial notice is granted.
SIMS, Acting P.J.
- C058610 THE PEOPLE v. CHRISTOPHER BOYD CROCKETT**
BY THE COURT:
Appellant's petition for rehearing is denied.
BLEASE, Acting P.J.

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Court Minutes

March 20, 2009

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Morrison*, Associate Justice; Robie, Associate Justice; and Horner, bailiff.

C055622 THE PEOPLE v. ERIC KENNETH DUNGAN

Cause called. David Y. Stanley, court appointed counsel, argued for appellant. Barton Bowers, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:55 a.m., the court recessed. At 9:59 a.m., the court reconvened with Morrison*, Associate Justice; Butz, Associate Justice; and Cantil-Sakauye, Associate Justice.

C056749 GLENN COUNTY VETERANS COUNCIL, INC., et al. v. COUNTY OF GLENN et al.

Cause called. Shannon Thompson argued for appellant. Carroll A. Ragland, Deputy County Counsel, argued for respondent. Cause submitted.

At 10:18 a.m., the court recessed. At 2:02 p.m., the court reconvened with Sims, Associate Justice; Davis*, Associate Justice; and Hull, Associate Justice.

C055469 THE PEOPLE v. DEL JAY UGALINO

Cause called. Kenny N. Giffard argued for appellant. Ivan P. Marrs, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:32 p.m., the court recessed. At 2:35 p.m., the court reconvened with Davis*, Associate Justice; Hull, Associate Justice; and Cantil-Sakauye, Associate Justice.

*Retired Associate Justice of the Court of Appeal. Third Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

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March 20, 2009, Continued

C057765 LEE v. REID et al.

Cause called. Don H. Lee argued for appellant in pro. per.. Andrew E. Benzinger argued for respondent. Cause submitted.

At 2:59 p.m., the court recessed until Monday, March 23, 2009.

C058340 THE PEOPLE v. (Not For Publication)
CRAIG DANNY GONZALES

The defendant's total presentencing custody credits are increased by 56 days. As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward it to the Department of Corrections and Rehabilitation.

CANTIL-SAKAUYE, J.

We Concur: Raye, Acting P.J.
Robie, J.

C058075 In re TYLER D.; THE PEOPLE v. TYLER D. (Not For Publication)

The finding and order of the juvenile court are affirmed.

BÜTZ, J.

We Concur: Nicholson, Acting P.J.
 Cantil-Sakauye, J.

C060286 **IOPPOLO v. SMITH**
BY THE COURT:

Appellant motion to reinstate the appeal is granted. The order of March 3, 2009, dismissing the appeal is vacated, and the appeal is reinstated.

The granting of the motion to reinstate is upon the condition that appellant forthwith pay the estimated costs for preparation of the record on appeal to the trial court clerk by March 30, 2009. The trial court clerk is authorized to accept the payment if paid within the time provided and proceed with the preparation of the record on appeal.

Failure to comply with the conditions of this order will result in the immediate dismissal of the appeal without further warning.

SCOTLAND, P.J.